



FAIR POLITICAL PRACTICES COMMISSION

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To: Chairwoman Ravel and Commissioners Eskovitz, Garrett, Montgomery, and Rotunda

From: Tara Stock, Legislative Coordinator

Subject: Update to Legislative Report Dated May 25, 2011

Date: June 8, 2011

This report reflects updates since the May 25, 2011, legislative report was issued. The last day for each house to pass a bill introduced in that house was June 3, 2011. Staff is requesting that the Commission adopt positions on proposals 1 through 10. Summaries of the proposals and positions as recommended by staff are below. As noted in the May 25, 2011, legislative report, staff is recommending that the Commission adopt an “oppose” position for each proposal that would have a significant fiscal impact on the Commission which is unmet by the proposed measure.

Current Legislation – Positions Not Yet Approved by Commission

1) SB 46 (Correa)

Disclosure of Government Compensation

Existing Law

The Act requires public officials specified in Government Code Section 87200 to file annual Statements of Economic Interests (SEIs). In addition, each state and local government agency is required to adopt a conflict-of-interest code, which includes a list of “designated employees” who must also file SEIs.

Proposed Law

This bill would require individuals who are required to file a SEI to include, as part of that filing, a compensation disclosure form. The compensation disclosure form would require specified information related to government “compensation” received by that individual in the preceding calendar year. If an agency maintains a website, they must post this information on its website. As an alternative to each individual filing a compensation disclosure form, an agency may compile the specified information for each individual and post the information on its website. The bill originally required the State Controller to adopt emergency regulations on or before October 1, 2011, but it was recently amended to require the State Controller to adopt regulations to implement the bill on or before March 1, 2013.

Status: Senate Floor.

Estimated Fiscal Impact: \$190,000

Staff Recommended Position: Oppose

Due to unmet fiscal impact. The bill contains an urgency clause, which provides an exemption from the June 3, 2011, deadline to pass out of the house it was introduced in.

2) SB 398 (Hernandez)

Placements Agents

Existing Law

The Act defines “placement agent” as an individual hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager, or on behalf of another placement agent, who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale of the securities, assets, or services of an external manager to a state public retirement system in California or an investment vehicle, either directly or indirectly. “External manager” is defined as a person who is seeking to be, or is, retained by the retirement board of a public pension or retirement system to manage a portfolio of securities or other assets for compensation, or a person who is engaged, or proposes to be engaged, in the business of investing, reinvesting, owning, holding, or trading securities or other assets and who offers or sells, or has offered or sold, securities to a board.

Proposed Law

This bill would define a “placement agent” to mean a person directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager *or an investment fund managed by an external manager* and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a board or investment vehicle either the investment management services of the external manager or an ownership interest in an investment fund managed by the external manager. The bill amends the definition of “external manager” to mean a person who is seeking to be, or is, retained by a board *or an investment vehicle* to manage a portfolio of securities or other assets for compensation, or a person who manages an investment fund, as defined, and who offers or sells, or has offered or sold, an ownership interest in the investment fund to a board or an investment vehicle.

Status: Assembly.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Support

This is a clean-up measure intended to provide clarity within the Act’s lobbyist provisions.

3) SB 415 (Wright)

Enforcement Investigations

Existing Law

The Commission is charged with the responsibility to investigate, upon the sworn complaint of any person or upon its own initiative, possible violations of the Act. Within 14 days after receipt of a complaint, the Commission must notify in writing the person who made the complaint of the action, if any, the Commission plans to take. If no decision is made within 14 days, the person who made the complaint shall be notified of the reasons for the delay. Regulation 18360 requires the Commission to provide the subject of a sworn complaint with a copy of the complaint within three business days of receipt, as well as copies of any correspondence sent to the person who filed the complaint. The regulation requires the Commission to inform the subject of a staff-initiated investigation of the alleged violation(s) not later than the time the information is provided to the Commissioners.

Proposed Law

This bill would require the Commission to notify any person who is the subject of an investigation of that investigation at least 24 hours before the Commission makes any information regarding the investigation available to the public.

Status: Assembly.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Neutral

At the June 9, 2011, hearing, staff will present proposed amendments to Regulation 18360, which will ensure that the Commission does not disclose information about an investigation to the public until at least 5 days have passed from the time the subject of the investigation is notified or sent notification of the investigation.

4) SB 439 (Negrete McLeod)

Gift Limits for CalPERS and STRS

Existing Law

The Act requires specified public officials to report the receipt of gifts aggregating \$50 or more from a single source in a calendar year and prohibits the receipt of gifts exceeding \$420 from a single source in a calendar year.

Proposed Law

This bill would prohibit any board member and any designated employee of the Public Employees' Retirement System (CalPERS) or the State Teachers' Retirement System (STRS) from accepting gifts totaling more than \$50 in a calendar year from persons who have secured a contract with, or submitted a contract proposal to, CalPERS or STRS within the previous five years.

Status: Assembly.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Neutral

The Act includes gift limits that apply consistently to all public officials. Amending the Act to include different rules for one segment of public officials will make the rules more complex and more difficult to comply with and interpret.

5) SB 488 (Correa)

Slate Mailers

Existing Law

The Act requires slate mail organizations or committees primarily formed to support or oppose one or more ballot measures that send a slate mailer to disclose specified information, including the name and address of the organization or committee on each piece of mail and on at least one insert (if included) and other specified information.

Proposed Law

This bill would provide that, if a slate mailer organization sends a mailer that displays a logo, insignia, emblem, or trademark that is identical or substantially similar to that of any governmental agency, or of a nongovernmental organization that represents law enforcement, firefighting, emergency medical, or other public safety personnel, the slate mailer organization would be required to obtain the express written consent of the agency or organization. In addition, if a slate mailer organization sends a mailer that identifies itself or its source material as representing a nongovernmental organization with a name that would reasonably be understood to imply that the organization is composed of, or affiliated with, law enforcement, firefighting, emergency medical, or other public safety personnel, the mailer would be required to disclose the total number of members in the organization identified and the number of members working or living within the county in which the mailer is being delivered.

Status: Assembly.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Neutral

The Act includes disclosure requirements for slate mailers. Requiring specific agencies and organizations to include additional information will make the rules more complex and more difficult to comply with and interpret. The most difficult challenges for the Commission would be determining when a logo, insignia, emblem or trademark is similar to an agency's or organization's logo and identifying other types of organizations that would trigger the new requirements.

6) SB 593 (Gaines)

Tahoe Regional Planning Agency

Existing Law

Public officials of state and local government agencies are required to comply with the Political Reform Act.

Proposed Law

This bill would require each of the California members of the Tahoe Regional Planning Agency, a bi-state agency created by Federal Compact, to comply with the Political Reform Act and file Statements of Economic Interests with the Commission.

Status: Assembly Elections and Redistricting Committee.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Support

This measure furthers the Act's efforts to reduce or eliminate conflicts of interest.

7) SB 801 (Kehoe)

Statements of Economic Interests – Appointees to State Boards and Commissions

Existing Law

The Act requires elected state, county, and city officers, as well as members of state licensing or regulatory agencies to file their original statements of economic interests (SEIs) with their respective agency and the filing official for the agency must make and retain a copy and forward the original to the Commission. Most other individuals required to file SEIs file with their respective agency or the agency's code reviewing body, as provided by the agency's conflict-of-interest code, and the SEIs are retained by the respective agency.

Proposed Law

This bill would require persons appointed to a state board, commission, or similar multimember body of the state to file their SEIs with the respective board, commission, or body, which would be required to retain the original and forward a copy to the Commission.

Status: Assembly Elections and Redistricting Committee.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Support

Amendments are in the process to clarify that the Commission continues to receive originals from (and act as the filing officer for) specified appointees.

8) AB 873 (Furutani)

Post-Employment Restrictions – CalPERS and CalSTRS

Existing Law

The Political Reform Act places certain restrictions on the post-governmental activity of officials who have left state service. The one-year ban prohibits certain officials, for one year after leaving state service, from representing any other person by appearing before or communicating with, for compensation, their former agency in an attempt to influence agency decisions that involve the making of general rules (such as regulations or legislation), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods. The permanent ban on "switching sides" prohibits former state officials from working on proceedings that they participated in while working for the state. The ban prohibits appearances and communications to represent any other person, as well as aiding, advising, counseling, consulting or assisting in representing any other person, for compensation, before any state administrative agency in a proceeding involving specific parties (such as a lawsuit, a hearing before an administrative law judge, or a state contract) if the official previously participated in the proceeding.

Proposed Law

This bill would expand on the current post-governmental activities by prohibiting: 1) members of the Board of Public Employees' Retirement System (CalPERS) or the State Teachers' Retirement System (STRS) and specified officers and employees of CalPERS and STRS for a period of four years after leaving office from representing another person before CalPERS or STRS for the purpose of influencing administrative or legislative action or influencing an action involving a permit, license, grant, or contract, or the sale or purchase of goods or property; 2) members of the Board of CalPERS or STRS and specified officers and employees from assisting a business entity within two years after leaving office to perform, implement, or execute a contract of greater than \$10,000,000 with that business entity; and, 3) members of the Board of CalPERS or STRS and specified officers and employees for a period of ten years after leaving office from accepting compensation for providing services as a placement agent.

Status: Senate.

Estimated Fiscal Impact: \$135,000 (first year); \$90,000 (ongoing)

Staff Recommended Position: Neutral pending amendment

9) AB 1146 (Norby)

Cash Contributions and Expenditures

Existing Law

Campaign statements are required to include specified information, including the total amount of contributions received and expenditures made. If the cumulative amount of contributions received from a person or expenditures made to a person is \$100 or more, specified information is required to be disclosed on a campaign statement. No person shall make an anonymous contribution totaling \$100 or more.

Proposed Law

This bill would increase the threshold for itemizing contributions and expenditures from \$100 to \$200. The threshold for anonymous contributions is increased from \$100 to \$200.

Status: Senate.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Neutral

Increasing the disclosure threshold simplifies the campaign reporting requirements.

10) AB 1241 (Norby)

Government Code Section 84308 – Definition of Officer

Existing Law

Section 84308: 1) prohibits an officer (elected or appointed) of an agency from accepting, soliciting or directing a contribution of more than \$250 from a party or participant with a matter pending before the agency involving a license, permit or other entitlement; 2) prohibits an officer from making, participating in making or attempting to influence the decision in a proceeding involving a license, permit or other entitlement for use if the officer received more than \$250 from the party or participant in the 12 months before the proceeding; and, 3) requires disclosure of the receipt of any such contribution on the record of the proceeding. Certain agencies, including courts, agencies in the judicial branch, local government agencies whose members are directly elected by voters, the Legislature, the Board of Equalization and constitutional officers, are exempt from Section 84308.

Proposed Law

This bill would exclude elected members of an agency from the definition of "officer" so that only appointed members of an agency would be subject to the provisions of Section 84308.

Status: Senate.

Estimated Fiscal Impact: Minor/absorbable

Staff Recommended Position: Neutral

Current Legislation – Positions Previously Approved by Commission

11) SB 50 (Correa)

Conflicts of Interest Disqualification – High Speed Rail Authority Members

Existing Law

A public official who holds an office specified in Government Code Section 87200, with the exception of a member of the Legislature, who has a financial interest in a decision must comply with the following disqualification procedures: 1) Publicly identify the financial interest; 2) Recuse himself/herself from discussing and voting on the matter; and 3) Leave the room until after the discussion and vote.

Proposed Law

This bill would add members of the High Speed Rail Authority to the list of specified offices in Government Code Section 87200 who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

Status: Assembly Elections and Redistricting Committee.

Estimated Fiscal Impact: Minor/absorbable

Commission Position: Support

12) AB 41 (Hill)

Conflicts of Interest Disqualification – High Speed Rail Authority Members

Existing Law

A public official who holds an office specified in Government Code Section 87200, with the exception of a member of the Legislature, who has a financial interest in a decision must comply with the following disqualification procedures: 1) Publicly identify the financial interest; 2) Recuse himself/herself from discussing and voting on the matter; and 3) Leave the room until after the discussion and vote.

Proposed Law

This bill is identical to SB 50 (Correa), above. It would add members of the High Speed Rail Authority to the list of specified offices in Government Code Section 87200 who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

Status: Senate Elections, Reapportionment & Constitutional Amendments Committee.

Estimated Fiscal Impact: Minor/absorbable

Commission Position: Support

13) AB 65 (Gatto)

Ballot Pamphlet

Existing Law

The Act contains provisions that set forth the required contents of state ballot pamphlets and the format in which the items must appear. The information currently required includes a copy of the ballot measure, a copy of the specific constitutional or statutory provision that the measure would repeal or revise, and an analysis of the measure prepared by the Legislative Analyst.

Proposed Law

This bill would require the Secretary of State to include in the statewide ballot pamphlet a list of the five highest contributors of \$50,000 or more to each primarily formed committee supporting or opposing each state measure, as well as the total amount of their contributions, as of 110 days before an election.

Status: Senate Elections, Reapportionment & Constitutional Amendments Committee. Hearing is scheduled for June 7, 2011.

Estimated Fiscal Impact: Minor/absorbable

Commission Position: Support

14) AB 182 (Davis)

Statements of Economic Interests – Electronic Filing

Existing Law

The Counties of Los Angeles, Merced, Orange, Santa Clara, Stanislaus, and Ventura and the City of Long Beach may permit the electronic filing of Statements of Economic Interests required to be filed by public officials designated in each participating agency's conflict-of-interest code. This pilot program shall be completed by January 1, 2012.

Proposed Law

This bill extends the pilot project to continue through December 31, 2012. Assuming the pilot project is successful, the bill also *permits all* filing officers, as of January 1, 2013, to accept the electronic filing of Statements of Economic Interests.

Status: Senate Elections, Reapportionment & Constitutional Amendments Committee.

Estimated Fiscal Impact: Minor/absorbable

Commission Position: Support

Two-Year Bills

The following bills missed the June 3, 2011, deadline to pass out of the house they were introduced in. They are now two-year bills.

15) SB 18 (Blakeslee) – Gifts from Lobbying Entities

16) SB 19 (Blakeslee) – Campaign Telephone Calls

17) SB 265 (La Malfa) – Committees (“spot” bill)

18) AB 447 (Huffman and Fletcher) – Comprehensive PRA Reform

19) AB 785 (Mendoza) – Conflicts of Interest

20) AB 860 (Jones and Mansoor) – Corporation and Union Influence Reduction Act

21) AB 1148 (Brownley) – Advertisement Disclosure

“Watch” Bills

The following bills amend the Act, but do not directly affect the Commission. Staff will continue to track the bills.

22) SB 334 (DeSaulnier) – Ballot Pamphlet

23) AB 71 (Huber) – Lobbying Interests

24) AB 1021 (Gordon) – Ballot Pamphlet

25) AB 1413 (Assembly Elections Committee) – Campaign Statements